

5438

HOUSE TRAILERS—SECTION 4503.06 RC—TEMPORARY EXEMPTION FROM TAX—APPLICABLE IN CASE OF ALL BONA FIDE RESIDENTS OF FOREIGN STATES—RESIDENTS MUST HAVE COMPLIED WITH LAWS OF SUCH STATES AS TO REGISTRATION OF TRAILERS.

SYLLABUS:

The provision in Section 4503.06, Revised Code, for a temporary exemption from the tax therein imposed on house trailers is applicable in the case of all bona fide residents of states other than Ohio where such residents have complied with the laws of such states regarding registration of house trailers.

Columbus, Ohio, July 1, 1955

Hon. Frank T. Cullitan, Prosecuting Attorney
Cuyahoga County, Cleveland, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Because the question is one of state-wide concern, I am requesting your opinion on a problem presented to us by the Auditor of Cuyahoga County.

“Revised Code 4503.06 provides an exemption from the house trailer tax for house trailers bearing out-of-state license plates. The pertinent part of this section reads:

“‘A house trailer bearing a license plate issued by any state other than this state is exempt from the tax for a period not to exceed ninety days in any twelve month period, provided no person occupying such house trailer is employed in this state. When any person occupying a house trailer bearing a license plate issued by any state other than this state accepts employment within this state, the tax shall become due immediately upon the expiration of a thirty day exemption period commencing with the first day of such employment.’

“Pursuant to this section the County Auditor deducts ninety days in the first year of occupancy in Ohio, in computing the tax owed by the trailer owner where the house trailer bears a license plate issued by a foreign state.

“Recently a trailer owner from Alabama claimed he was entitled to the ninety-day exemption, saying, ‘If Alabama issued plates for house trailers, which it does not, I would have bought one and I owe no tax to that state.’ It is possible that some foreign states issue no plates for trailers, or if a tax or motor vehicle fee on trailers is levied, the cost thereof is included in the amount charged for the metal plate that is affixed to the powered motor vehicle.

“Your opinion is requested on the question: Must every house trailer from out of the state have affixed thereon a license plate issued by the foreign state in order to obtain the exemption for a period up to ninety days under Revised Code 4503.06?

“You may wish to know whether or not the foreign state actually issues trailer licenses. However, the circumstances in the foreign state become immaterial if in your view the legislature intended to provide a ninety-day exemption for out-of-the-state trailer owners irrespective of the license requirements of the state of their origin. The language, ‘provided no person occupying such house trailer is employed in this state’ at least raises the possibility that the Ohio legislature wished to provide a ninety-day breather for persons to secure employment and funds for the tax payable, or to provide an exemption for all tourists and other casual visitors.”

It would seem that the “exemption provision” you have quoted above in Section 4503.06, Revised Code, was intended as a reciprocity arrangement whereby visitors from sister states would be temporarily exempted from the burden of the tax imposed generally on house trailers. Although this provision relates only to the tax imposed by this section, such tax being separate and distinct from the registration and licensing fees imposed under the provisions of Section 4503.02, Revised Code, it

is nevertheless helpful to compare this language with that found in Section 4503.36, Revised Code, providing for reciprocity in the case of laws relating to the registration and licensing of motor vehicles. This section provides in part:

“The owner of every motor vehicle which is duly registered in any state, district, country, or sovereignty other than this state is exempt from the laws of this state pertaining to registration and licensing and the penal statutes relating thereto, provided the owner thereof has complied with the law in regard to motor vehicles in the state, district, country, or sovereignty of his residence and complies with such law while operating and driving such motor vehicle upon the public roads or highways of this state. Such exemption shall be operative only if the law of such other state, district, country, or sovereignty makes substantially like and equal exemptions to the owners of motor vehicles registered in this state.”

Here it is to be noted that exemption is provided only if (1) the vehicle is “duly registered” in a sister state and (2) the owner has “complied with the law * * * in the * * * sovereignty of his residence.”

In the case of Alabama it will be noted that under the provisions of Title 51, Section 702, Code of Alabama, a “small trailer,” including a house trailer of less than a designated load capacity, is exempt from registration and from the license tax on motor vehicles. Moreover, a license plate is not required to be issued with respect to such trailers nor are the owners required to display a license plate thereon.

For some years past, the Ohio Registrar of Motor Vehicles has taken the position that reciprocity should be extended to Alabama owners of house trailers under the provisions of Section 4503.36, *supra*, despite the fact that such trailers were not “duly registered” in that state, it being his view that this language referred primarily to a compliance with the laws of a sister state, and that if such laws did not require registration then Ohio would not require it as a condition of temporary use of the highways of this state.

In the instant case, it would seem that the legislature, in using the expression “bearing a license plate issued by any state other than this state,” intended in harmony with the reciprocity provision as to registration and licensing in Section 4503.36, *supra*, to make the exemption applicable to all such vehicles whose owners had complied with the laws of the

sovereignty of residence, and that this language was employed in the assumption that all other states required the display of such a license plate, and not with the intention of withholding the exemption from temporary visitors who are residents of states the laws of which do not provide for the registration of house trailers and the display of tags thereon.

Accordingly, in specific answer to your inquiry, it is my opinion that the provision in Section 4503.06, Revised Code, for a temporary exemption from the tax therein imposed on house trailers is applicable in the case of all bona fide residents of states other than Ohio where such residents have complied with the laws of such states regarding registration of house trailers.

Respectfully,

C. WILLIAM O'NEILL

Attorney General